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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,978	01/25/2007	Jan Albert De Vries	BROOK7	9227
6980 7590 03/17/2010 TROUTMAN SANDERS LLP 5200 BANK OF AMERICA PLAZA 600 PEACHTREE STREET, N.E. SUITE 5200 ATLANTA, GA 30308-2216				
EXAMINER				
COOLEY, CHARLES E				
ART UNIT		PAPER NUMBER		
1797				
NOTIFICATION DATE		DELIVERY MODE		
03/17/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/580,978

**Applicant(s)**

DE VRIES, JAN ALBERT

**Examiner**

Charles E. Cooley

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 May 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 31 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SO-08)  
Paper No(s)/Mail Date 20070125  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **NON-FINAL OFFICE ACTION**

1. **This application has been assigned to Technology Center 1700, Art Unit 1797 and the following will apply for this application:**

Please direct all written correspondence with the correct application serial number for this application to **Art Unit 1797**.

Telephone inquiries regarding this application should be directed to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 or to the Examiner at (571) 272-1139. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

### ***Priority***

2. Acknowledgment is made of a claim for priority under 35 U.S.C. § 119(a)-(e). All of the CERTIFIED copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

### ***Information Disclosure Statement***

3. Note the attached PTO-1449 forms submitted with the Information Disclosure Statement filed 25 JAN 2007.

### ***Drawings***

4. The sheets of drawings filed on 31 MAY 2006 are approved by the examiner.

***Specification***

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
6. The disclosure is objected to because of the following informalities:
- a. The specification should have the following headings inserted therein at the appropriate locations in accordance with 37 CFR 1.77:

**Arrangement of the Specification**

The following order or arrangement is preferred in framing the specification and, except for the title of the invention, each of the lettered items should be preceded by the headings indicated below.

- (a) Title of the Invention.
- (b) Cross-References to Related Applications (if any).
- (c) Statement as to rights to inventions made under Federally-sponsored research and development (if any).
- (d) Background of the invention.
  - 1. Field of the Invention.
  - 2. Description of the Related Art including information disclosed under 37 C.F.R. §§ 1.97-1.99.
- (e) Summary of the Invention.
- (f) Brief Description of the Drawing.
- (g) Description of the Preferred Embodiment(s).
- (h) Claim(s).
- (i) Abstract of the Disclosure.

Appropriate correction is required.

7. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required. The PCT abstract is not an abstract on a separate sheet for IFW purposes.

8. The title is acceptable.

### ***Claim Objections***

9. Claim 14 is objected to under 37 CFR 1.75(c) because the claim is in improper dependent form as failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Appropriate correction is required.

Note claim 14 duplicates subject matter found in claim 11, thereby failing to further limit claim 11.

Correction is required.

### **§ 1.75 Claim(s)**

(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes under § 1.16, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. In addition to the other filing fees, any original application which is filed with, or is amended to include, multiple dependent claims must have paid therein the fee set forth in § 1.16(j). Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.

- (d) (1) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the

meaning of the terms in the claims may be ascertainable by reference to the description. (See § 1.58(a)).

***Double Patenting***

10. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

11. Claims 1-10 are rejected under 35 U.S.C. 101 as claiming the exact same invention as that of claims 1-10 of prior U.S. Patent No. US 7,216,761 B2 to de Vries. This is a double patenting rejection.

12. Claims 11-14 are rejected under 35 U.S.C. 101 as claiming the same invention and being coextensive in scope with claims 1, 4, 5, and 6 of prior U.S. Patent No. US 7,216,761 B2 to de Vries. This is a double patenting rejection.

13. Claims 15-18 are rejected under 35 U.S.C. 101 as claiming the same invention and being coextensive in scope with claims 1, 2, 3, 7, 9, and 10 of prior U.S. Patent No. US 7,216,761 B2 to de Vries. This is a double patenting rejection.

***Claim Rejections - 35 U.S.C. § 112, second paragraph***

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claims 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15, line 10: does the "second starting component" have any relationship to the "second component of liquid" recited in lines 2-3.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley in Art Unit 1797 whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri.. The

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles E. Cooley/

Charles E. Cooley  
Primary Examiner  
Art Unit 1797

15 March 2010